

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ERIC McCAIN,)	
)	
Plaintiff,)	
)	
v.)	2: 04-CV-2367-WMA-RRA
)	
MAYOR BENARD KINCAID,)	
)	
Defendant.)	

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on February 15, 2005, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed for failure to state a claim upon which relief can be granted under 28 U.S.C. § 1915A(b). No objections have been filed. However, the copy of the report and recommendation sent to plaintiff at the address provided by him was returned by the U.S. Postal Service as unclaimed, with a handwritten notation, "Not In Jail." The following notice appears on the original complaint completed and filed by plaintiff:

NOTICE TO FILING PARTY

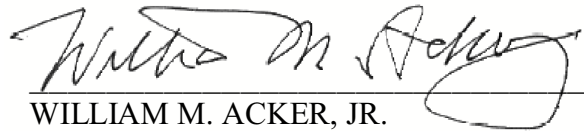
It is your responsibility to notify the Clerk in writing of any address change. Failure to notify the Clerk may result in dismissal of your case without further notice.

Plaintiff has failed to notify the Clerk of any change in his address. This Court shall therefore proceed to an adjudication on the merits.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is ACCEPTED. Accordingly, the

complaint is due to be dismissed for failing to state a claim upon which relief can be granted pursuant to 28 U.S.C. § 1915A(b). An appropriate order will be entered.

DONE this 10th day of March, 2005.


WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE